



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.19229 of 2020

Ganesha Moorthi

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Kumbakonam Revenue Division,
Kumbakonam.

2.The Assistant Director of Mines and Minerals,
Thanjavur District, Thanjavur.

3.The Inspector of Police,
Kabisthalam Police Station,
Kabisthalam, Thanjavur District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to release the petitioner's Tractor with Trailer bearing Registration No.TN 59H4767, seized on 03.08.2019 and keeping under the custody of the third respondent by considering the petitioner's representation dated 01.12.2020.

For Petitioner
For Respondents

: Mr.Krishnan.S
: Mrs.S.Srimathy,
Special Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The petitioner claims to be the owner of the petition mentioned vehicle. It was seized in connection with the petition mentioned crime number. The petitioner's counsel states that till date the vehicle in question has not been produced before the jurisdictional court.

3.It has been held time and again that keeping the vehicle in the custody of the respondents is not going to serve any purpose. On the other hand, it will contribute to loss of value. Even though the criminal case has been registered, the vehicle in question is yet to be produced before the jurisdictional Court. The case is



still under investigation. Therefore, the Writ Court will always have the power to direct release of vehicle. The FIR was registered in the year 2019. Therefore, I refrain from imposing any cost.

4.The learned counsel for the petitioner states that the vehicle has not been involved in any previous case of the same nature. He also submitted that the petitioner is also not having any previous case.

5.The Hon'ble Supreme Court in the decision reported in **(2002) 10 SCC 283 (Sunderbhai Ambalal Desai and Others V. State of Gujarat)** has held as follows:-

"17.In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

6.Recording the submission made by the learned counsel for the petitioner on instructions, I direct release of the petition mentioned vehicle subject to the following conditions :

- a) The petitioner shall not alienate or encumber the vehicle in question till the proceedings are completed.
- b) The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle. If the petitioner concerned is an agreement holder and the R.C book is with the financier, he or she can be permitted to produce the photocopies of the relevant documents and if the vehicle is a new one, sales invoice can be produced.
- c) As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and shall cooperate with the enquiry to be conducted by the respondents.

7.After completion of the aforesaid formalities, the respondents shall release the petition mentioned vehicle forthwith without any delay. If the undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future and the order passed by this Court will stand



recalled and the vehicle in question will be taken back to custody and it will be released only after getting orders from this Court on such terms as this Court may deem it fit to impose.

8.The Writ Petition is allowed accordingly. No costs.

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Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Revenue Divisional Officer,
Kumbakonam Revenue Division,
Kumbakonam.
- 2.The Assistant Director of Mines and Minerals,
Thanjavur District, Thanjavur.
- 3.The Inspector of Police,
Kabisthalam Police Station,
Kabisthalam, Thanjavur District.

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